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April 16, 2008

**VIA ECFS**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *Ex Parte Notification; WC Docket No. 08-24, Petition of Verizon New England for Forbearance Pursuant to 47 U.S.C. § 160 in Rhode Island*

*WC Docket No. 07-97, Petition of Qwest for Forbearance Pursuant to 47 U.S.C. § 160 in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*

*Petition of Verizon New England for Forbearance Pursuant to 47 U.S.C. § 160 in Virginia Beach*

Dear Ms. Dortch:

Yesterday, the undersigned, Francie McComb, and Noah Bason of Cavalier Telephone LLC, met with Tim Stelzig, Denise Coca and Adam Kirschenbaum from the Wireline Competition Bureau. At the meeting, Cavalier discussed its opposition to the Petitions in the above-captioned matter, consistent with Cavalier's comments and Motions to Dismiss filed in the dockets. We presented views set forth in the attached document which was provided at the meeting.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brad Lerner", with a long, sweeping horizontal line extending to the right.

Bradley E. Lerner  
Counsel

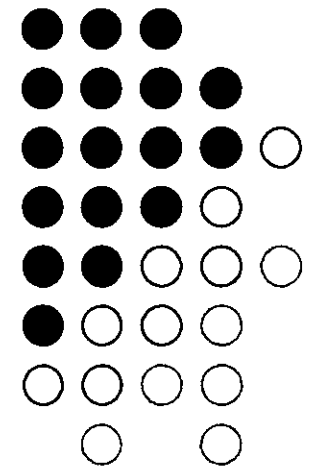
cc: Tim Stelzig, FCC  
Denise Coca, FCC  
Adam Kirschenbaum, FCC

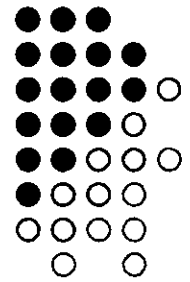
# **Qwest Four City Verizon Rhode Island Verizon Virginia Beach Forbearance Petitions**

**Francie McComb, Senior Vice President Law and  
Public Policy, Cavalier Telephone, LLC**

**Brad Lerner, Counsel, Cavalier Telephone, LLC**

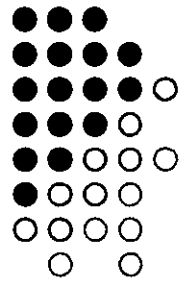
**Noah Bason, Counsel, Cavalier Telephone, LLC**





# Who We Are

- Residential and Small Business Provider
  - Largest CLEC in Virginia – only CLEC in Virginia Beach MSA
  - Cavalier has built its own fiber network in Virginia Beach
  - Service area includes Northeast, Southeast, and Midwest
- Premier Competitive Provider of IPTV
  - Technology innovator using copper to bring low cost IPTV to residential and small business customers
- Innovator of Ethernet over Copper
  - 15 megs over copper pair



# Virginia Beach Market

- Cavalier competes aggressively on price and serves many who may not otherwise receive comparable service
- If the Commission does not deny Verizon's petition, Cavalier is in danger of losing its access to over 25,000 customers in the Virginia Beach Market, and may likely be forced to exit the market

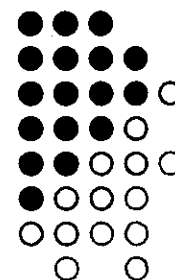


Central Office

Fiber

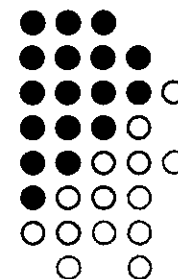
Cavalier Existing Wire Center Boundary





# Duplicative Petitions

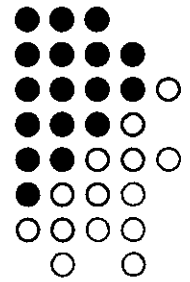
- The competitive landscape has not dramatically changed since the Commission denied Verizon relief in the Six MSA Order a mere four months ago
- The Petitions rely almost entirely on data supporting competition by Cox—data which Cox itself refutes as inaccurate
  - Cox admits it has not engaged in any large-scale facilities build-out since the Six MSA Order, so the evidence at issue has already been rejected
- These repetitive proceedings not only drain Commission time, energy and resources, but also affect the public interest by diverting the limited resources of CLECs (like Cavalier) away from providing innovative, low cost alternatives



# Verizon's Rates are Increasing

- Verizon's most recent state tariff filings in Rhode Island and Virginia, subsequent to the Six MSA Order decision, demonstrate that Verizon continues to increase rates

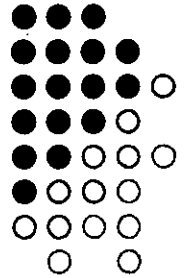
# Virginia Beach should not follow in the Footsteps of Omaha



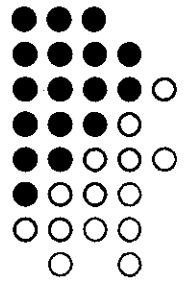
- With no other alternative, McLeod has announced that it will withdraw from that market. And other CLECs, Eschelon and Integra, abandoned their business plans to enter Omaha at all as a result of that Commission Order
- Cavalier does not want to be in that same boat in Virginia Beach



# Public Interest Considerations



- Technology at risk:
  - Innovation over copper pair not possible via resale or special access
  - Innovators like Cavalier dependent on two wire copper pair (DS0)
  - IPTV is a major competitive challenge to Incumbents
- Cavalier offers significant savings to customers
  - We offer a promotional package of telephone and high-speed Internet service for under \$40 a month, compared to almost \$60 for similar packages from Verizon, AT&T, and Comcast
  - Cavalier's non-promotional IPTV, high-speed Internet, and phone bundle sells for under \$100 a month, compared to about \$110 for Cox and over \$150 for Verizon FIOS



# Conclusion

- Cavalier encourages the Commission to push back on these repetitive forbearance petitions by:
  - Denying the Qwest Petition in all four markets – these petitions are substantively and economically flawed and facilities-based competition in the requested markets does not approach the levels found in Omaha and Anchorage
  - Denying the Verizon Petitions in Rhode Island and Virginia Beach- these petitions should be denied for the same reasons that they were just four months ago